



UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

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**In re application of
Brinati, et al**

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Serial No. 08/885,770 : PETITION
Filed: June 30, 1997 :
For: VDF Polymerization Process :

This is a response to the PETITION UNDER 37 C.F.R. 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT, filed December 2, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of March 29, 1999 for failure to timely respond to the Office Action mailed August 20, 1998, be withdrawn. The petitioner asserts that the applicant timely responded to the Office Action on January 13, 1999 and has provided a copy of the stamped postcard receipt as evidence.

DECISION

The instant request is accepted as a petition under 37 C.F.R. 1.181 (no fee). A review of the petitioner's evidence provided with the instant petition and the application papers indicates that the request does have merit.

However, it is noted that MPEP 711.03 (c) I states:

37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).



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In this case the Notice of Abandonment was mailed March 29, 1999. Since the applicants have not timely sought status information regarding this application and applicant's request to withdraw the holding of abandonment was not filed until December 2, 2004, more than 5 years after the date of the Notice of Abandonment, the request is untimely.

The Petition is **DISMISSED**, as untimely.

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